

VZCZCXRO0027
PP RUEHPB
DE RUEHSV #0131/01 1060810
ZNY CCCCC ZZH
P 160810Z APR 09
FM AMEMBASSY SUVA
TO RUEHC/SECSTATE WASHDC PRIORITY 1147
INFO RUEHBY/AMEMBASSY CANBERRA PRIORITY 2207
RUEHLO/AMEMBASSY LONDON PRIORITY 0163
RUEHPB/AMEMBASSY PORT MORESBY PRIORITY 1667
RUEHUL/AMEMBASSY SEOUL PRIORITY 0102
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RUEHWL/AMEMBASSY WELLINGTON PRIORITY 0266
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0401
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C O N F I D E N T I A L SECTION 01 OF 04 SUVA 000131

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E.O. 12958: DECL: 04/15/2019

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SUBJECT: FIRST STEPS IN DEALING WITH POST-CONSTITUTIONAL
FIJI

REF: A) SUVA 000013 B) SUVA 000031

Classified By: CHARGE D'AFFAIRES, A.I. RICHARD K. PRUETT. REASONS 1.5 (B) AND (D)

SUBJ: First Steps for Dealing with Post-Constitutional Fiji

REF: A) Suva 000013 B) Suva 000031

¶1. (SBU) Summary: The abrogation of Fiji's 1997 Constitution and the reinstatement of Fiji's military-led interim government (IG) is the denouement of a series of IG blunders that has compounded the serious racial and economic problems already confronting ethnic and Indo-Fijians. The challenge for the United States will be in striking the right balance between the need to pressure the IG to take the necessary steps to restore democracy as soon as possible and the imperative to engage with the IG in a measured manner calculated to help Fiji end its coup culture.⁸ We need to continue to engage with Fiji to ensure that whatever form of democracy emerges from its current struggle is stable, functional, and durable, and protects minority rights. The United States alone has succeeded in achieving and maintaining strong credibility with the IG, its largely Indo-Fijian supporters, and its democratic opposition. Mutual trust will be important to carrying forward the work of restoring democracy to Fiji and returning Fiji to its former position of regional leadership. To help the parties establish that trust will not be possible if we lose our credibility with either side. We need to find ways to register our strong disapproval of what has happened without sacrificing our ability to influence the present regime on important bilateral issues as well as such transcendent issues as the protection of fundamental human rights, an end to media censorship, genuine political dialogue leading to early elections, economic development, the re-integration of Fiji with regional institutions, and the rehabilitation of Fiji to a position of regional leadership. End summary.

BACKGROUND

¶2. (C) The abrogation of Fiji's 1997 Constitution by President Ratu Josefa Iloilo Uluivuda was undoubtedly at the urging of Commodore Josaia Voreqe Frank Bainimarama, the commander of Fiji's military, who until April 9 was Fiji's interim prime minister. Although Fiji's head of state and theoretically the commander-in-chief of its armed forces, Iloilo is in fact little more than a figurehead, as reported in Ref A. He serves at Bainimarama's pleasure to give the IG a patina of legality. Bainimarama's apparent

acceptance of the April 9 appeal court ruling against the legality of his interim regime was almost certainly a cynical ploy preparatory to his engineered reinstatement by Iloilo April 11. The &necessity8 for abrogating the constitution was supposedly the power vacuum created by the April 9 ruling invalidating Iloilo,s 2007 appointment of Bainimarama as interim Prime Minister and the need to &map out a smooth path to holding parliamentary elections based on electoral reforms and other reforms as set out under the (People,s) Charter.8 However, the abrogation of Fiji,s constitution in order to hasten the return of democracy is akin to cutting down a tree to harvest its fruit. Moreover, Bainimarama,s reappointment as interim prime minister raises the question of who was actually wielding the ax.

13. (C) Iloilo could have simply followed the court ruling by appointing Bainimarama as caretaker prime minister, ignoring the court,s non-binding obiter dicta calling for an independent figure to assume that role and to lead the country to early elections. Embassy considers that the decision not to take such a direct approach is likely rooted in the IG,s fear that it would do nothing to restore the grant of immunity that Iloilo conferred on Bainimarama and his supporters at the time of Bainimarama,s 2007 appointment. Iloilo,s decision to abrogate the constitution was likely foisted on him by the IG for the purpose of giving the IG expanded powers and to foreclose the possibility of treason proceedings by a successive government. The abrogation of the 1997 constitution also served to eliminate former Prime Minister Qarase,s claim to office. Among the expanded powers the IG is seeking to exercise under Iloilo,s

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purported emergency authorities are the complete replacement of Fiji,s judiciary, prohibitions against assembling in groups of three or more, and severe limitations on media freedoms. At this writing, three foreign journalists have been deported since the abrogation, a small number of protesting attorneys have been arrested, and a small number of dissenting officials have been sacked, but the security situation remains relatively peaceful.

14. (SBU) The road to Fiji,s abrogation is littered with broken promises and missteps by the IG. The most prominent of these were Bainimarama,s July 2008 reneging on his pledge of elections by March 2009 to the leaders of the countries comprising the Pacific Islands Forum (PIF) and his effective scuttling of Fiji,s initially promising political dialogue process. In fact, the appeals court ruling occurred on the very day that Bainimarama had chaired a lopsided Leaders of Political Parties (LOPP) &dialogue8 that deliberately excluded the main opposition parties, which together had amassed over 70 percent of the popular vote in the last elections. Bainimarama told the opposition parties not to attend after they balked at accepting some last minute pre-conditions he sought to impose--such as a restriction on dealings with media or foreign governments--that flew against the principles of inclusion and open-mindedness set out in the first LOPP meeting. The United Nations and British Commonwealth were to use the fruits of the LOPP process to lead a President,s Political Dialogue Forum (PPDF) to lead the parties toward fashioning an all-Fijian plan forward to political reconciliation and elections. Tellingly, Bainimarama also excluded UN and Commonwealth observers from the April 9 LOPP meeting. The UN and Commonwealth are said to be reviewing their plans for a joint mission in leading the PPDF process.

U.S. ACTIONS/RESPONSE

15. (C) The United States, position on the dialogue process has been clear. We have endorsed the joint mission,s insistence that any mediation be on the basis of a commitment by all parties to the principles that the process would be independent, inclusive, time-bound and without prejudice to its outcome. The concluding statement of the April 9

&rump8 LOPP also claimed to endorse those principles. Embassy Suva believes that the United States should encourage the IG and the UN/Commonwealth to move ahead with the PPDF process despite the IG,s bad faith dealings to date. We believe that honest dialogue is the firmest and shortest route to the restoration of democracy in Fiji. The first LOPP buoyed hopes of a dialogue process that would lay the foundation for durable democratic institutions and end Fiji,s &coup culture8 once and for all. The IG effectively rejected dialogue in favor of a stultifying monologue. Fiji needs the UN and Commonwealth to step into the role of honest broker and lift the process from the IG,s control. It will not be an easy task: the IG likely will try to exert its control at every step of the way to weaken and delay the process. The UN/Commonwealth joint mission should seek to recover the initial promise of the PPDF. It should be led by a highly-reputable team and have generous donor aid with which to establish a secretariat. Support for the joint mission and for genuine dialogue in general should be central elements of U.S. strategy in the earliest days of Fiji under its new order.

¶6. (SBU) U.S. policy toward Fiji has been far from &business as usual8 ever since the December 2006 coup d,etat. In accordance with Section 508 of the Foreign Operations Assistance Act, the United States suspended military assistance and some foreign assistance programs because of the coup, and those restrictions will remain in force until Fiji returns to democracy. In close coordination with our allies and partners in the region, we also imposed visa sanctions and took other targeted measures directed against the coup leaders and their supporters. We have sought to avoid restrictions that would add to the suffering of the Fijian people. The targeted nature of these sanctions has won widespread acceptance and even support among the Fijian people. Those sanctions should remain in place and constitute an enduring element of our policy toward Fiji until it makes measurable progress on the path back to

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democracy.

¶7. (SBU) Although of intrinsic merit, restoring elections is not an end in itself, or even as a step to a new political order in Fiji; it is more importantly an essential prerequisite to our pursuit of expanded regional engagement and cooperation, and to greater harmonization of Pacific programs with U.S. interests. Fiji,s role as a transportation hub makes it a key focal point for regional engagement. Regional efforts toward addressing the daunting economic, environmental, security, energy and other challenges facing the Pacific island countries are unable to gain strong traction as long as Fiji is absent from the leadership on such issues and is instead itself a focus of regional insecurity. It is therefore essential that Embassy Suva continue to work with all elements of Fijian society and regional partners to promote the rule of law, strengthen civil society, and encourage the rebuilding of democratic institutions. Ref B lays out a strategy for calibrated engagement while underscoring the opportunity costs to the IG of continued intransigence through the loss of assistance, senior-level visits to Washington, an Open Skies Agreement, regional coordination and planning for future military cooperation.

¶8. (SBU) While enforcing existing sanctions, the United States should resist the temptation to levy new sanctions barring a significant deterioration in Fiji,s human rights situation. We will monitor these carefully in the days ahead. Fiji,s armed forces now play a constructive role in a range of peacekeeping operations, including in Iraq and the Sinai. Until other contributors step up to make up the resulting shortfall, we should avoid punishing Fiji in such a way as to weaken our larger peace-keeping efforts. Nonetheless, Fiji,s military should remain subject to the visa sanctions and Leahy vetting, and future Fijian

peace-keeping or Coalition deployments must wait until Fiji,s military and police are re-trained and re-indoctrinated for civil affairs missions.

SUPPORTING PIF and UN-COMMONWEALTH INITIATIVES

¶9. (C) The PIF Forum Leaders Special Retreat Communique on Fiji of January 27 committed the PIF to targeted measures in relation to Fiji unless the IG announced an election date by May 1 and set that election to take place by December 2009. The PIF statement also tasked its Ministerial Contact Group with monitoring the situation in Fiji and directed it to report to the leaders before their next meeting scheduled for August in Cairns, Australia. The concluding statement of the 31st Commonwealth Ministerial Action Group meeting of March 4 expressed its full support for the statement issued by the Forum leaders, including its milestones and benchmarks. The PIF should take formal cognizance of what has happened in Fiji by convening its Ministerial Contact Group for the purpose of weighing the possibility of additional measures, which might include full suspension from the Forum. The United Nations should perform a similar assessment to review Fiji,s progress and report it to the Commonwealth, as it requested at its March 4 meeting. The statements from these meetings would be for the purpose of either bringing forward the deadlines or emphasizing their imminence, re-stating the serious consequences should they lapse without action, and underscoring the importance of an inclusive, independent, time-bound PPWF without predetermined outcomes as the only realistic way forward toward a Fijian solution.

¶10. (C) We cannot cast a blind eye to the follies of the interim government and its lead in Fiji,s descent to dictatorship. Yet, neither should we now vilify the leadership of Fiji,s government of the day at the time President Iloilo is inviting the nation to assist it in wiping the slate clean⁸ and cooperating with it as it flexes sweeping new powers. It has already posted military and police in the offices of Fiji,s media to censor articles it deems injurious to the public order, such as Secretary Clinton,s remarks at the Australia-United States Ministerial. (Similarly, a leading newspaper replaced the USG press statement on Fiji drafted by Embassy Suva with white space and the statement: "This story could not be published due to government restrictions."⁸) We intend to be

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similarly "subversive"⁸ in the days ahead by continuing to speak out. At the same time, we need to maintain our existing channels to the IG. This allows us to apply pressure directly, serving not only our own interests but those of our regional partners. Their resident representatives have asked us to continue to engage in direct dialogue with the IG on Fiji,s future, and some of Fiji,s leading political parties have asked us to do so as well.

¶11. (C) We also need to anticipate that some of our regional partners may approach us regarding one or more of at least three possible initiatives. The first is the idea of applying pressure directly on Fiji,s military by withdrawing our support for Fiji,s continuing deployments to the Multinational Force and Observers mission in the Sinai. Post opposes this idea for the reasons stated in Para 8. The second is the idea of pressuring South Korea to join the travel sanctions regime against Fiji,s military and supporters of the December 2006 coup. Should it choose, Seoul could follow Tokyo,s example by imposing the travel sanctions but not announcing them. Korean Airlines is the main air link now available to the IG for access to international air travel routes. Seoul,s imposition of visa restrictions similar to those imposed by the United States and described in Para 6 would dramatically tighten Fiji,s international isolation. The obligations of the United States as host country of the United Nations would remain unchanged and require our continuation of the present waiver policy for related travel, but we would need to exert the

same discriminating care in any other waiver cases as we would hope to expect from the Koreans. The third approach is to dissuade Japan from inviting high-level Fijian participation in the Pacific Island Leaders Meeting (PALM 5), now scheduled for May 21-23 in Hokkaido. Canberra and Wellington have interceded with Tokyo against Fiji,s participation. Under the present circumstances, we should ask Tokyo to consider restricting Fiji,s participation to its Ambassador to Japan, Ratu Inoke Kubuabola.

¶12. (C) Fiji,s challenge to the region and its institutions deserves the clearest possible regional response, beginning with implementation by the PIF of the targeted measures agreed to at Port Moresby. The &Pacific Way,8 which emphasizes group consensus, tends to militate against a more robust response by the PIF. A military intervention along the lines of the Regional Assistance Mission to the Solomon Islands is unrealistic in Fiji,s non-permissive environment.

Unfortunately, a prime objective of the People,s Charter, pushed by the IG as its manifesto for Fiji,s future, is an even larger role for Fiji,s military. So, the difficulty of mounting an adequate response may only grow as the military becomes more entrenched in Fiji,s institutions. We need to engage the IG directly to dissuade it from pursuing that longer-term course. Our best options now are to support the initiatives of the PIF, UN and Commonwealth, sustain the pressure of our present sanctions regime, seek new travel restrictions by other partners in the region, and continue to engage directly with the IG with a view to helping it resolve Fiji,s longer-term systemic issues. We need to recalibrate our public diplomacy effort in Fiji by adding additional speakers and shifting other resources, in order to aid our effectiveness in speaking out against the excesses of Fiji,s military government. At the same time, we need to temper our severe disapproval of what has happened with a dispassionate eye to all that we seek to achieve if we are to remain an effective intercessor with this government. We believe that to be the best way to advance U.S. interests on bilateral issues and the broader regional agenda, and to influence better IG behavior on such transcendent issues as media freedom, judicial independence, democracy and human rights.

PRUETT